

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

CHARLES ROBERT RUNYON

COMPLAINANT

VS.

ASHLAND EXPLORATION, INC.

DEFENDANT

Case No. 93-030

O R D E R

Charles Robert Runyon of Pinson Fork, Kentucky, filed a formal complaint against Ashland Exploration, Inc. ("Ashland") on January 25, 1993. Mr. Runyon alleges that Ashland refuses to provide utility service to him even though he lives within ten feet of one of Ashland's gas lines and has offered to lay his own line and pay all other expenses necessary to obtain the service. He requests that Ashland provide him with natural gas for his residence.

Ashland is a gas production company whose product is primarily sold to interstate pipelines such as Columbia Gas Transmission Corporation.¹ Ashland initially owned and operated a gas gathering pipeline system connecting approximately 350 gas wells. In 1990 it acquired additional properties, including 220 Kentucky gas wells and 140 miles of gas gathering pipeline, all located in Kentucky.

¹ Case No. 10038, Abandonment of Gas Service by Ashland Exploration, Inc. and Barnes Transportation Company, Inc. and Case No. 91-396, An Investigation of Ashland Exploration, Inc.

In addition to its sales to interstate pipelines, Ashland currently serves approximately 2,000 Kentucky customers. These domestic sales represent approximately 2.7 percent of Ashland's total system volume.² Most of these customers were initially served pursuant to KRS 278.485, a statute passed by the Kentucky General Assembly in 1955 which requires a gas pipeline company, such as Ashland, to provide service to domestic retail customers under certain conditions.

The Public Service Commission was attempting to require another gas pipeline company to serve Kentucky residents under the provisions of KRS 278.485 when, in 1979, the United States Court of Appeals for the Sixth Circuit ruled that a state cannot require diversion of gas from the interstate market for the use of state residents without federal authorization.³ The Court stated that the Federal Energy Regulatory Commission ("FERC") has exclusive jurisdiction over the movement of gas from the wellheads through the gathering lines because "the ultimate sale in other states of a substantial part of a producer's natural gas output invokes federal jurisdiction over the entire volume of production."⁴ Therefore, the Commission is without jurisdiction to order Ashland to provide Mr. Runyon with natural gas service.

² According to information submitted by Ashland in Case No. 91-396 for fiscal year 1992, Ashland's total system volumes were 8,578,742 Mcf, 233,126 Mcf of which were sold to domestic retail customers.

³ Public Service Commission of Kentucky v. Federal Energy Regulatory Commission, 610 P.2d 439 (1979).


⁴ Id., at page 444.

Ashland requested approval from FERC in 1981 to continue diverting a small percentage of its gas from the interstate market to maintain service to its domestic retail customers. In Orders issued March 6, 1981 and June 18, 1991, FERC approved the release from dedication to the interstate market of sufficient volumes of gas to maintain service to Ashland's existing domestic customers. Mr. Runyon was apparently not one of the individuals receiving natural gas service at that time. Mr. Runyon can obtain service only if Ashland voluntarily seeks FERC's approval to divert additional volumes of gas from its interstate sales.


IT IS THEREFORE ORDERED that this complaint is hereby dismissed for lack of Commission jurisdiction over the subject matter.

Done at Frankfort, Kentucky, this 18th day of March, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director